

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 J.D. ENQUIST,

11 Plaintiff,

12 v.

13 HAROLD CLARKE, *et al.*,

14 Defendants.

15 Case No. C07-5069 FDB/KLS

16 REPORT AND
17 RECOMMENDATION

18 **NOTED:**
19 **April 20, 2007**

20 This civil rights action been referred to United States Magistrate Judge Karen L. Strombom
21 pursuant to Title 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and 4. The Court is advised by Plaintiff
22 that he no longer wishes to pursue this action.

23 **DISCUSSION**

24 On February 14, 2007, Plaintiff filed his application to proceed *in forma pauperis* and a
25 proposed civil rights complaint. (Dkt. # 1). On February 20, 2007, the Clerk of the Court sent a
letter to Plaintiff, advising of various deficiencies in Plaintiff's application to proceed *in forma
pauperis*. (Dkt. # 2). In response, Plaintiff sent a handwritten letter advising the Clerk that although
he received mail from the Court, he is unable to read standard size print and most handwriting and is
prevented from filing because prison officials have taken his eyeglasses. (Dkt. # 3). Plaintiff asks
that his case be returned to him. (*Id.*).

26
27 The Court interprets Plaintiff's letter as a motion to voluntarily dismiss his action pursuant to
28

1 Rule 41(a)(1) of the Federal Rules of Civil Procedure.

2 Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

3 [A]n action may be dismissed by the plaintiff without order of court (i) by
4 filing a notice of dismissal at any time before service by the adverse party of an
answer or of a motion for summary judgment, whichever first occurs

5

6 **CONCLUSION**

7 The Court should dismiss this action as plaintiff has voluntarily requested dismissal. No
8 answer or motion for summary judgment has been filed by any defendant. As Plaintiff's request to
9 have his filings returned to him is unusual and none of the documents filed with the Clerk's office are
10 originals, the undersigned does not recommend that the Clerk return the documents to Plaintiff. A
11 proposed order accompanies this Report and Recommendation.

12 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,
13 the parties shall have ten (10) days from service of this Report and Recommendation to file written
14 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
15 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time
16 limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **April 20,**
17 **2007**, as noted in the caption.

18

19 DATED this 27th day of March, 2007.

20

21



22
23 Karen L. Strombom
24 United States Magistrate Judge
25
26
27
28